

PLAINTIFF'S EXHIBIT LIST
AS OF APRIL 18, 2018 4:12 PM

CASE CAPTION: Frederick F. Fagal, Jr. v.
Marywood University

CASE NUMBER: 3:14-cv-02404-ARC

MIDDLE DISTRICT OF PENNSYLVANIA

JUDGE: A. Richard Caputo

PTF	DESCRIPTION OF OBJECT OR ITEM	IDENTIFIED	EVIDENCE	RULING	WITNESS ON STAND
1	Amended Complaint (Jan. 15, 2015)				
2	Defendant's Answer to Plaintiff's Amended Complaint and Affirmative and Other Defenses (June 30, 2015)				
7	"Contractual Agreements with Faculty Members" policy (Feb. 18, 2011)				
16	DVD: Downfall (Constantin Film AG 2004)	✓	✓	not admitted	Fagal
17	Finlo Rohrer, <u>The rise, rise and rise of the Downfall Hitler parody</u> , BBC New Magazine (Apr. 13, 2010 10:59 GMT)	✓		not admitted	Fagal
18	<u>Hitler Downfall parodies: 25 worth watching</u> , The Telegraph (Oct. 6, 2009 7:00 AM BST)				

PTF	DESCRIPTION OF OBJECT OR ITEM	IDENTIFIED	EVIDENCE	RULING	WITNESS ON STAND
19	Daniel A. Gross, <u>Führer Humor: The Art of the Nazi Comedy</u> , The Atlantic (Dec. 20, 2015)				
20	Paul Boutin, <u>Video Mad Libs with the Right Software</u> , N.Y. Times (Feb. 24, 2010)				
21	Virginia Heffernan, <u>The Hitler Meme</u> , N.Y. Times (Oct. 24, 2008)				
22	Dylan Sanborn, <u>Goodell (Hitler) Reacts to the Patriots Week 7 Victory Against the Steelers</u> , YouTube (Oct. 25, 2016), https://youtu.be/_cmsegbYKtk				
23	Jamnospam, <u>Real Estate Downfall</u> , YouTube (Nov. 3, 2008), https://youtu.be/bNmcf4Y3IGM				
24	Save NY Schools, <u>High Stakes Standardized Testing in New York....the DOWNFALL !</u> , YouTube (Sept. 4, 2013), https://youtu.be/OvKVkitKOgk				
25	"Progressive Discipline" policy (May 7, 2014)				
26	Letter from Jonathan Z. Cohen to Sr. Anne Munley (Feb. 2, 2012) (DEF000192-DEF000196)	✓		A for purpose disc. request	Fagal to convene cmt. to review susp.

PTF	DESCRIPTION OF OBJECT OR ITEM	IDENTIFIED	EVIDENCE	RULING	WITNESS ON STAND
29	Correspondence from Sr. Gail Cabral to Sr. Anne Munley (Feb. 27, 2012) (DEF000241)			A	agreed by parties
31	Email from Frederick F. Fagal, Jr. to Sr. Gail Cabral (Feb. 22, 2012) (FFF000126-FFF000128)			A	
35	Plaintiff's First Set of Interrogatories Directed to Defendant (June 22, 2016)				
36	Letter from Stephanie J. Peet to Jonathan Z. Cohen (Sept. 1, 2016)				
37	Letter of Agreement (May 10, 2010) (FFF000432)				
41	Letter from Jonathan Z. Cohen to William J. Anthony (Feb. 17, 2012) (FFF001686-FFF001693)	✓		A for purpose of ex. emts	Fagal
42	Email from Helen M. Bittel to Patricia E. Dunleavy (May 18, 2012 4:03 PM) (DEF001749-DEF001751)	✓		A	Bittel
43	"Minutes. Ad Hoc Meeting #2. May 17, 2012. 2-4p" (DEF000322-DEF000323)	✓		A	Bittel
44	Policy titled "Employment At-will Relationship with Administrators and Staff" (Feb. 24, 2006) (FFF001199-FFF001200)				

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45	Policy titled "Non-reappointment of Faculty Member" (July 1, 2003) (FFF001445-FFF001446)				
46	Policy titled "Violent Acts and Threats" (Apr. 29, 2011) (FFF001460-FFF001461)	✓		A	Fagal
48	"Talking Points for Meeting (my checklist)" (DEF002898-DEF002899)	✓		A	Dunleavy
54	Email from Patricia E. Dunleavy to Sr. Anne Munley (July 18, 2012) (DEF002781-DEF002782)	✓		NOT Adm.	Dunleavy
55	Letter from Jonathan Z. Cohen to William J. Anthony (Feb. 17, 2012) (FFF001686-FFF001693)	✓		A	Fagal
56	Letter from Jonathan Z. Cohen to William J. Anthony (Feb. 28, 2012) (FFF001748)	✓		A	Fagal
58	Email from Barbara McNally to Alan M. Levine (Apr. 2, 2012) (DEF002380)	✓		A	Levine
59	Letter from Jonathan Z. Cohen to William J. Anthony (Apr. 4, 2012) (FFF000155-FFF000157)	✓		A	Fagal
62	Email from Helen M. Bittel to Patricia E. Dunleavy (July 10, 2012) (DEF003732-DEF003734)	✓		A	Bittel

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63	Kristin K. Kucsma, M.A. & Stephen B. Levinson, Ph.D., <u>An Appraisal of Economic Loss to Frederick F. Fagal, Jr.</u> (Nov. 2, 2016) ¹	✓		Not admitted	Kucsma
64	"Authority of the Board of Trustees" Policy Statement (Jan. 23, 1999)				
65	"Delegation to the President" Policy Statement (Jan. 23, 1999)				
70	"Institutional Property Policy" Policy Statement (Apr. 7, 2000)				
71	"Deadly Weapons and Fireworks" Policy Statement (Apr. 29, 2011)				
72	Objections & Answers to Defendant's First Set of Interrogatories to Plaintiff (Nov. 20, 2015)				
74	Email from Edward J. O'Brien to Jean O'Brien (Jan. 13, 2012 10:15 PM) (DEF003079-DEF003080)				
75	Email from Edward J. O'Brien to Donald Myers (Jan. 14, 2012 4:10 PM) (DEF002978-DEF002980)				

¹ If the Court wants this exhibit publicly filed, we will replace it with a copy that redacts certain dates of birth.

PTF	DESCRIPTION OF OBJECT OR ITEM	IDENTIFIED	EVIDENCE	RULING	WITNESS ON STAND
80	Email from Frederick F. Fagal, Jr. to Helen M. Bittel, Edward J. O'Brien, and Mathew R. Povse, including attachment (July 6, 2012) (DEF001494-DEF001496)				
81	"Faculty Grievance Committee Meeting" (June 19, 2012) (DEF001510-DEF001512)	✓		A	Bittel
82	Email from Helen M. Bittel to Sr. Anne Munley, including attachment (July 5, 2012 6:29 PM) (DEF001585-DEF001590)				
83	Email from Mathew R. Povse to Sr. Anne Munley (June 25, 2012 4:20 PM) (DEF000393)	✓		A	Povse
84	Email from Helen M. Bittel to Mathew R. Povse and Edward J. O'Brien, including attachment (June 26, 2012 12:24 PM) (DEF001370-DEF001375)	✓		A	Bittel
86	"Talking points re Fagal's videos" (DEF000149)				
87	Email from Helen M. Bittel to Erin A. Sadlack (May 17, 2012) (DEF000317)	✓		A	Bittel

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88	Letter from William J. Anthony to Jonathan Z. Cohen (Apr. 26, 2012) (FFF001697-FFF001698)				
89	"Faculty Senate Minutes, McGowan Room 1059, 3:00-4:40 PM, January 11, 2013" (FFF001966-FFF001991)				
90	Letter from William J. Anthony to Jonathan Z. Cohen (Feb. 28, 2012) (FFF000143-FFF000154)	✓		A	Fagal
91	Board Action – Meeting of April 23, 1993 (Apr. 26, 1993) (FFF000193)				
92	Agreement and Appointment for Full-Time Faculty (FFF000192)				
93	Agreement and Appointment for Full-Time Faculty (May 10, 1993) (FFF000194)				
94	Agreement and Appointment for Full-Time Faculty (May 10, 1994) (FFF000195)				
95	Marywood University Tenured Faculty Letter of Agreement (May 8, 2009) (FFF000433)				
96	Marywood University Tenured Faculty Letter of Agreement (May 9, 2008) (FFF000434)				

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97	Marywood University Tenured Faculty Letter of Agreement (May 10, 2007) (FFF000435)				
98	Marywood University Tenured Faculty Letter of Agreement (May 10, 2006) (FFF000439)				
99	Marywood University Tenured Faculty Letter of Agreement (May 10, 2005) (FFF000440)				
100	Marywood University Tenured Faculty Letter of Agreement (May 10, 2004) (FFF000441)				
101	Marywood University Tenured Faculty Letter of Agreement (May 9, 2003) (FFF000448)				
102	Marywood University Tenured Faculty Letter of Agreement (May 10, 2001) (FFF000452)				
103	Marywood University Tenured Faculty Letter of Agreement (May 10, 2000) (FFF000456)				
104	Marywood University Tenured Faculty Letter of Agreement (May 10, 1999) (FFF000461)				

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105	Marywood University Tenured Faculty Letter of Agreement (May 10, 2008) (FFF000465)				
106	Agreement and Appointment for Full-Time Faculty (May 10, 1997) (FFF000468)				
107	Agreement and Appointment for Full-Time Faculty (May 10, 1996) (FFF000468)				
108	Agreement and Appointment for Full-Time Faculty (May 10, 1996) (FFF000472)				
109	Agreement and Appointment for Full-Time Faculty (May 10, 1995) (FFF000474)				
110	"Political Activity of Faculty Members" policy (July 1, 2003) (FFF001449-FFF001450)				
111	"Retirement or Resignation of Faculty Member" policy (Feb. 19, 2011) (FFF001458-FFF001459)				
112	"Revision of Progressive Discipline Policy" (FFF002011-FFF002016)				
113 Δ	Emails from the Chronicle of Higher Education to Frederick F. Fagal, Jr. – Part 1 (FFF002184-FFF002371)	✓		A	Fagal

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114	Emails from the Chronicle of Higher Education to Frederick F. Fagal, Jr. – Part 2 (FFF002421-FFF002457)				
115	Email from Alan M. Levine to Sr. Anne Munley (Nov. 28, 2011) (DEF002703-DEF002706)	✓		A	Levine
117	Email from Joseph X. Garvey, Jr. to Alan M. Levine (Jan. 17, 2012 2:48 PM) (DEF002747-DEF002749)				
119	“Minutes for Ad Hoc Committee Meeting #1” (May 11, 2012) (DEF001508-DEF001509)	✓		A	Bittel
123	Email from Mathew R. Povse to Patricia E. Dunleavy (June 29, 2012) (DEF003245)				
127	Letter from Jonathan Z. Cohen to William J. Anthony (Apr. 19, 2012) (FFF001752)				
128	List of 19 “Downfall” parodies on YouTube				
129	Excerpts of the 19 “Downfall” parodies listed in Exhibit 128				
130	Letter from Frederick F. Fagal to Cazenovia College (Nov. 18, 2016) (FFF002458-FFF002459)	✓		A	Fagal

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131	Resume of Frederick F. Fagal, Jr. (FFF002460-FFF002462)				
133	"Faculty Positions to begin Fall Semester 2017," https://chroniclevitae.com/jobs/000033636601? cid=ja (printed Nov. 14, 2016)				
135	Email from Frederick F. Fagal to Cazenovia College (Nov. 18, 2016) (FFF002636)	✓		A	Fagal
136	Emails from the Chronicle of Higher Education to Frederick F. Fagal, Jr. – Part 3 (FFF002652-FFF002697)	✓		A	Fagal
137	Email from SUNY Oswego to Frederick F. Fagal, Jr. (May 7, 2017) (FFF002735)				
138	Resume of Frederick F. Fagal, Jr. (FFF002736-FFF002737)				
139	"Visiting Assistant Professor of Economics Vitae," https://chroniclevitae.com/jobs/000036688701? cid=ja (Apr. 28, 2017) (FFF002851-FFF002855)				

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142	"Thank You," https://oswego.interviewexchange.com/thankyou.jsp?MUL_DOCS=MUL_DOCS (May 7, 2017) (FFF002879)				
143	Email from SUNY Oswego to Frederick F. Fagal, Jr. (May 26, 2017) (FFF002884)				
144	Email from SUNY Oswego to Frederick F. Fagal, Jr. (June 20, 2017) (FFF002885)	✓		A	Fagal
145	Emails from the Chronicle of Higher Education to Frederick F. Fagal, Jr. – Part 4 (FFF002984-FFF003098)				
146	Emails from the Chronicle of Higher Education to Frederick F. Fagal, Jr. – Part 5 (FFF003099-FFF003122)				
147	Emails from the Chronicle of Higher Education to Frederick F. Fagal, Jr. – Part 6 (FFF003123-FFF003124)				
148	Emails from the Chronicle of Higher Education to Frederick F. Fagal, Jr. – Part 7 (FFF003125-FFF003126)				
149	Emails from the Chronicle of Higher Education to Frederick F. Fagal, Jr. – Part 8 (FFF003127-FFF003128)				

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150	Email from the Chronicle of Higher Education to Frederick F. Fagal, Jr. – Part 9 (FFF003129-FFF003130)				
151	Email from the Chronicle of Higher Education to Frederick F. Fagal, Jr. – Part 10 (FFF003131-FFF003133)				
152	Email from the Chronicle of Higher Education to Frederick F. Fagal, Jr. – Part 11 (FFF003134-FFF003135)				
153	Email from the Chronicle of Higher Education to Frederick F. Fagal, Jr. – Part 12 (FFF003136-FFF003137)				
154	Email from the Chronicle of Higher Education to Frederick F. Fagal, Jr. – Part 13 (FFF003138-FFF003139)				
155	Defendant's Reply Brief in Support of its Motion to Dismiss Plaintiff's Complaint (Apr. 9, 2015)				
156	Joint Case Management Plan (Sept. 17, 2015)				
157	Rachel Looker & Satara Dickey, "Former tenured professor files lawsuit against university," <i>The Wood Word</i> (Feb. 22, 2015)				

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158	"Policy Format Marywood University," http://www.marywood.edu/policy/policy-format.html (viewed Apr. 16, 2018)				
159	Plaintiff's Rule 26 Computations (Dec. 4, 2015)				
160	Plaintiff's Rule 26 Computation – Excel Worksheet (Dec. 4, 2015)				
161	Letter from Jonathan Z. Cohen to Patricia E. Dunleavy (Mar. 24, 2018)				
162	Declaration of Server (Mar. 5, 2018)				
163	Email from Frederick F. Fagal, Jr. to William Ziegelbauer (Dec. 15, 2011) (same as Def. Ex. 5)				
164	Email from Frederick F. Fagal to Geri Lynn Smith (Jan. 3, 2012) (same as Def. Ex. 9)				
165	Email from Frederick F. Fagal Jr. to Rod Carveth (Jan. 3, 2012) (same as Def. Ex. 10)				
166	Letter from Peter Bonilla to Sr. Anne Munley (Jan. 6, 2012) (DEF000010-DEF000012) (same as Def. Ex. 11)				
167	Email from Frederick F. Fagal to Benjamin Harrington (Jan. 25, 2012) (000200324.00001-000200324.00001) (same as Def. Ex. 14)				

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168	Email from Frederick F. Fagal, Jr. to linzgrov@roadrunner.com (Jan. 15, 2012) (000200378.00001-000200378.00005) (same as Def. Ex. 16)				
169	Letter from Sr. Anne Munley to Peter Bonilla (Jan. 20, 2012) (DEF000159) (same as Def. Ex. 19)				
170	Email from Linda Rose to Frederick F. Fagal, Jr. (June 6, 2012) (000200541.00001-000200541.00002) (same as Def. Ex. 29)				
171	Bond Yields and interest rates, 1947-2015				
172	Marywood University Faculty Handbook (July 1, 2012)				
173	Fact Finding Questionnaire completed by Frederick F. Fagal, Jr. (Sept. 15, 2016)				
174	1040 Instructions 2017				
175	1040 Tax Tables 2015				
176	Agreement for Pre-Tax Salary Reduction Under Section 403(B)				
177	Early Retirement Incentive Plan (May 5, 2017)				

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179	Medicare Premiums: Rules for Higher-Income Beneficiaries (2018)				
180	National Vital Statistics Reports – United States Life Tables, 2011				
181	New York State tax rate schedule (2015)				
182	Resident Income Tax Return (long form) (2009)				
183	PA-40 – 2009 Pennsylvania Income Tax Return				
184	Letter from Social Security Administration to Frederick F. Fagal, Jr. (Nov. 10, 2016)				
185	2016 OASDI Trustees Report				
186	Jared Walczak, “State Individual Income Tax Rates and Brackets for 2015” (Apr. 2015)				
187	W-2 statements (2008-2014)				
188	Your Social Security Statement (Sept. 7, 2016)				
189	Median Hourly Earnings All Occupations 2016				
190	Median Hourly Earnings Education Training and Library 2016				
191	2011 U.S. Income Tax Return				